

Below is the Order of the Court.



Mary Jo Heston

Mary Jo Heston
U.S. Bankruptcy Judge

(Dated as of Entered on Docket date above)

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UNITED STATES TRUSTEE,
Plaintiff,

v.

THOMAS MCAVITY AND
NORTHWEST DEBT RELIEF LAW
FIRM,

Defendant.

MISCELLANEOUS PROCEEDING
NO. 20-00400-MJH

THIRD NOTICE OF TRIAL AND
ORDER SETTING DEADLINES

I. Trial Setting and Requests for Continuance

A. Trial Setting

This case is first set for a full day¹ non-jury trial commencing at **9:00 a.m.** on **September 20, 2021**, in the **United States Bankruptcy Court, 1717 Pacific Avenue, Courtroom H, Tacoma, Washington.**

¹If counsel anticipates that the trial will take longer than the length of time set forth in this order, counsel must, within ten (10) days of the date of this order, notify the Court and opposing counsel, by letter electronically filed with the Court, of the anticipated length of trial. The Court will then schedule a pretrial conference to facilitate any changes to the length of the trial and to discuss any other preliminary matters.

THIRD NOTICE OF TRIAL AND
ORDER SETTING DEADLINES - 1

1 B. Continuances

2 All requests for trial continuances or an extension of the deadlines in this order
3 will be considered only by motion and hearing set before the applicable deadline.
4 A trial date will not be routinely extended absent a showing of diligent prosecution
and compliance with this scheduling order. The exceptional circumstances
warranting the continuance must be set forth in the motion.

5 The party seeking the continuance of a trial date shall contact Judge Heston's
6 Courtroom Deputy, Sammii Bergeson, at (253) 882-3951 for available future trial
7 dates prior to the hearing on the request for a continuance. If the parties have
8 agreed to a continuance, it is the responsibility of the parties to confer prior to the
hearing as to future trial dates. All parties must attend the hearing for a
continuance.

9 II. Pretrial Procedures/Deadlines

10 A. Consent to Entry of Final Adjudication and Corporate Ownership

11 Each party shall comply with the requirements of Fed. R. Bankr. P. 7008 and
12 7012(b). Each party shall also comply with Local Rules W.D. Wash. Bankr. 7012-
13 1 by filing a Notice Regarding Final Adjudication and Consent not later than **April**
14 **29, 2021**. As set forth in Local Rules W.D. Wash. Bankr. 7012-1(c), failure by a
party to file a Notice Regarding Final Adjudication and Consent by the deadline
in this order shall constitute that party's consent to entry of final orders or
judgments by the bankruptcy judge.

15 If a party is required to file a Corporate Ownership Statement under Fed. R.
16 Bankr. P. 7007.1 such statement shall be filed not later than seven (7) days after
entry of this order.

17 B. Limitation on Time to Amend Pleadings or Join Parties

18 1. *Amendments to Pleadings*

19 All amendments to pleadings prior to trial shall be made no later than **May 31,**
20 **2021**. After this deadline the parties may request leave of the Court to amend
pleadings by motion filed and served on notice to all parties.

21 2. *Joinder of a Party*

22 Unless otherwise ordered following an appropriate motion, the deadline to
23 join other parties is **May 14, 2021**. After this deadline any request to join a
24 party shall be made by motion filed and served on notice to all parties.

25 C. Disclosures

1 1. *Initial Disclosures*

2 All parties shall make the initial disclosures as required Fed. R. Civ. P. 26(a)
3 and Fed. R. Bankr. P. 7026 by **April 29, 2021**. All counsel must meet face-
4 to-face or by telephone within fourteen (14) days after the initial disclosures
5 are due under this order to discuss the exchange of relevant information for
6 purposes of discovery and the potential for settlement or alternative dispute
7 resolution.

8 2. *Expert Disclosures*

9 All parties shall make the expert disclosures required by Fed. R. Civ. P.
10 26(a)(2) and Fed. R. Bankr. P. 7026 by **June 22, 2021**.

11 D. Discovery

12 All discovery shall be completed by **July 22, 2021**. All counsel must meet face-
13 to-face or by telephone within fourteen (14) days after the close of discovery to
14 discuss the potential for settlement or alternative dispute resolution.

15 E. Mediation Certification

16 The parties shall file the Mediation Certification required by Local Rules W.D.
17 Wash. Bankr. 9040-3 and if applicable not later than **May 14, 2021**.

18 F. Dispositive Motions

19 Dispositive Motions shall be filed and served with a hearing held no later than
20 **August 20, 2021**.

21 G. Pretrial Conferences

22 A pretrial conference is scheduled for **August 12, 2021 at 9:00 AM**. The
23 hearing will be by telephone. Please contact the Courtroom Deputy for the call-
24 in information.

25 H. Exhibits

 All parties must exchange their proposed exhibits by **September 6, 2021**.

 1. *Identification*

 A number sequence shall be used for all exhibits of all parties with prefixes
 indicating the offering party (i.e. P1, P2, etc.; D1, D2, etc.; Tr.1, Tr.2, etc.).

 2. *Format*

Any party submitting exhibits shall submit such exhibits in 3-ring binders. Binders shall include an index of exhibits and each exhibit shall be separated with an index tab marked with the identification as required above. Any documentary exhibits that can reasonably be submitted on 8 1/2 by 11 inch paper shall be, with text on one side only.

3. *Submission to Court*

Parties intending to offer exhibits shall submit three (3) sets of 3-ring binders for use by the Court, the clerk, and witnesses no later than two (2) days prior to trial. The parties may contact the Courtroom Deputy for return of the binders following conclusion of the matter.

I. Technology Requests and Interpreters

1. *Technology Request*

Any party requesting technological assistance or equipment from the Court (such as projectors, screens, or equipment for a translator) must make such request via letter filed in ECF at least seven (7) days prior to the scheduled trial date.

2. *Interpreters*

A party intending to use an interpreter at trial shall file a statement identifying the name, address, telephone number and summary of qualifications of any interpreter no later than **September 6, 2021**. The statement shall also identify the witness for whom the interpreter is needed and the non-English language to be interpreted.

J. Trial Briefs

Trial briefs shall be filed by **September 10, 2021**. Each brief shall include that party's statement of the case, any applicable legal authorities, an identification of witnesses to appear for that party, and an enumerated list of exhibits intended to be introduced. Trial briefs shall also include as exhibits proposed findings of fact and conclusions of law. **Do not attach trial exhibits to the trial brief or file them in the electronic docket.**

K. Motions in Limine

Motions in Limine shall be filed by **September 13, 2021**. Responses, if any, shall be filed by **September 15, 2021**.

L. Confirmation

1 The plaintiff shall confirm that the trial is going forward **not later than 12:00 p.m.**
2 **seven (7) days prior** to the scheduled trial date. Failure to confirm as required
3 may result in the Court striking the trial date and dismissing the case with
4 prejudice. The trial shall be confirmed using the E-docket Confirmation Process.
5 Information concerning the use of the E-Docket Confirmation Process is
6 available on the Court's website at <http://www.wawb.circ9.dcn/>. A party not
7 represented by a lawyer may contact the Court to confirm the trial at (253) 882-
8 3951.

9
10 **M. Settlement**

11 The parties shall promptly notify the Court if the matter is settled. Settlement
12 documents shall be filed and approved by the Court on or before the trial date.
13 In the event settlement approval has not been obtained, the parties must appear
14 on the trial date and the settlement shall be set forth on the record. Failure of the
15 parties to do so will result in the trial being stricken and the case dismissed with
16 prejudice for failure to comply with this order.

17
18 **III. Compliance**

19 Counsel/parties are advised that failure to comply with the procedures and
20 deadlines set forth in this order, including the duty to provide the Court with updated
21 documents as necessary, may result in sanctions, including but not limited to monetary
22 sanctions, adverse evidentiary rulings, and/or dismissal of the action. Trials may be
23 stricken and the case dismissed *with* prejudice or relief entered without further notice,
24 and/or evidence excluded, for failure to comply with this order.

25
///End of Order///